

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

United States of America,  
Plaintiff/Respondent  
v.  
Barry Addison Gray,  
Defendant/Petitioner

2:95-cr-00324-JAD

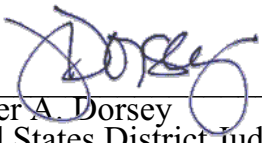
**Order Lifting Stay and Denying  
Motion to Vacate Sentence  
under 28 U.S.C. § 2255**

[ECF Nos. 33, 35]

Petitioner moves for habeas relief under 28 U.S.C. § 2255(a), arguing that the enhancement of his sentence under U.S. Sentencing Guidelines Manual § 4B1.1—commonly known as the career-offender provision—violated his due-process right because the provision’s residual clause is void for vagueness.<sup>1</sup> I stayed this petition in anticipation of the United States Supreme Court’s decision in *Beckles v. United States*.<sup>2</sup> The *Beckles* decision, issued today, squarely defeats petitioner’s claim: the High Court held that “the advisory Sentencing Guidelines are not subject to a vagueness challenge under the Due Process Clause.”<sup>3</sup>

In light of *Beckles*, **the STAY IS LIFTED**, and petitioner’s motion to vacate his sentence under 28 U.S.C. § 2255 **[ECF Nos. 33, 35] is DENIED**.

Dated March 6, 2017

  
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Jennifer A. Dorsey  
United States District Judge

<sup>1</sup> ECF Nos. 33, 35.

<sup>2</sup> ECF No. 36.

<sup>3</sup> *Beckles v. United States*, Case No. 15-8544, 580 U.S. \_\_\_, slip op. at 10 (Mar. 6, 2017).